

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

IN RE : BANKRUPTCY NO. 05-90050
: CHAPTER 7
ROBERT W. DUCK SR. AND DARLENE :
M. DUCK, DEBTORS :

MEMORANDUM AND ORDER

Robert W. Duck Sr. And Darlene M. Duck (“Debtors”) filed a voluntary Petition under Chapter 7 of the Bankruptcy Code on December 1, 2005. For bankruptcy cases filed after October 17, 2005, certain new requirements are imposed by the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (“BAPCPA”). Included are requirements for education both before and after the filing of a bankruptcy Petition.

Mandatory Prebankruptcy Credit Counseling

An individual is ineligible to be a debtor under Title 11 “unless such individual has during the 180 day period preceding the date of filing of the petition. . . received from an approved nonprofit budget and credit counseling agency an individual or group briefing that outlined the opportunities for available credit counseling and assisted such individual in performing a related budget analysis.” 11 U.S.C. §109(h)(1). Credit counseling must take place prior to the filing unless the Debtor submits to the Court a certification of exigent circumstances under §109(h)(3)(A). If the certification is satisfactory to the Court, the Debtor has 30 days to comply with the credit counseling requirement. §109(h)(3)(A).

Mandatory Postfiling Financial Management Course

The BAPCPA requires an individual debtor to complete an instructional course

concerning personal financial management after filing the Petition in order to obtain a discharge in a Chapter 7 case. 11 U.S.C. §727(a)(11). An individual who fails to complete an instructional course concerning personal financial management shall not be granted a discharge. Id.

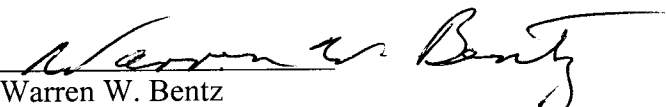
Discussion

Debtors completed the credit counseling requirement on November 7, 2005 as evidenced by Certificate Number B008147 issued by Consumer Credit Counseling Service. The certificate of credit counseling is filed at Document No. 6 on the docket.

Debtors filed this bankruptcy Petition on December 1, 2005. The Certification indicates that Debtors completed their credit counseling on December 3, 2005, after the filing date. The credit counseling must take place prior to the filing of the petition unless the Debtor files a certification of exigent circumstances. Debtors have filed an Affidavit which describes the exigent circumstances that exist in this case which the Court finds merit a waiver of the requirements of §109(h)(1).

It is therefore ORDERED that Debtors are granted an exemption from the requirements of §109(h)(1).

December 27th, 2005


Warren W. Bentz
United States Bankruptcy Judge

c: Scott F. Humble, Esq.

FILED

DEC 27 2005

CLERK, U.S. BANKRUPTCY COURT
WEST. DIST. OF PENNSYLVANIA
ERIE OFFICE